

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

FILED

APR 02 2014

Clerk, U.S. District Court
District Of Montana
Missoula

DARRELL DEAN SHARP,

CV 13-88-GF-DWM

Plaintiff,

vs.

ORDER

STATE OF MONTANA, et al.,

Defendants.

This matter was dismissed with prejudice and judgment was entered on March 3, 2014. (Docs. 22, 23.) Mr. Sharp filed a Notice of Appeal on March 17, 2014. (Doc. 24.) On March 19, 2014, Mr. Sharp filed what has been construed as a Motion for Leave to Proceed *in Forma Pauperis* on Appeal, (Doc. 26), and a Motion for a Certificate of Appealability, (Doc. 27). The Motions will be denied.

The Federal Rules of Appellate Procedure provide as follows:

[A] party who was permitted to proceed in forma pauperis in the district-court action, . . . , may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court-before or after the notice of appeal is filed-certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding;

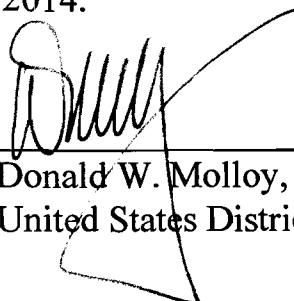
Fed.R.App.P. 24(a)(3)(A).

Although Mr. Sharp was granted leave to proceed *in forma pauperis* in this Court on November 21, 2013, (Doc. 5), the Court certified that an appeal in this matter would not be taken in good faith, (Doc. 22 at 7-8). The Motion to proceed *in Forma Pauperis* on Appeal will therefore be denied. Pursuant to the Federal Rules of Appellate Procedure, Mr. Sharp may file a motion to proceed on appeal *in forma pauperis* in the court of appeals within 30 days after service of the Court's March 3, 2014 notice certifying that an appeal in this matter would not be taken in good faith. Fed.R.App.P. 24(a)(5).

Mr. Sharp has also filed a Motion for Issuance of a Certificate of Appealability pursuant to 28 U.S.C. § 2253. (Doc. 27.) That statute pertains to appeals in *habeas corpus* cases, it does not apply to civil cases filed pursuant to 42 U.S.C. § 1983.

Accordingly, it is HEREBY ORDERED that Mr. Sharp's Motion to Proceed *in Forma Pauperis* on Appeal and Motion for Issuance of a Certificate of Appealability, (Docs. 26, 27), are DENIED.

DATED this 2nd day of April, 2014.



Donald W. Molloy, District Judge
United States District Court